

# EXHIBIT 1

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

SUVERINO FRITH et al, individually and on  
behalf of all others similarly situated,

Plaintiffs,

v.

WHOLE FOODS MARKET, INC.

Defendants.

Case No. \_\_\_\_\_

**AFFIDAVIT OF SUVERINO FRITH IN SUPPORT OF  
PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

I, Suverino Frith, hereby declare:

1. I have personal knowledge of the facts set forth in this declaration and could and would testify competently to them.
2. I have been working as an employee for Whole Foods for approximately two years.
3. I work at the Whole Foods located at 340 River Street in Cambridge, Massachusetts. I am Black.
4. Due to the onset of the COVID-19 pandemic, Whole Foods requires all its employees to wear a mask to work.
5. Following the death of George Floyd and demonstrations springing up across the country in support of the Black Lives Matter movement, my co-worker, Savannah Kinzer, approached me, informed me that fellow Whole Foods workers at other locations had begun wearing Black Lives Matter masks to work at Whole Foods, and that they had been sent home for wearing the masks. She gave me a Black

Lives Matter mask and told me she was organizing employees to wear the masks.

6. On June 24, twelve of my co-workers and I put on Black Lives Matter masks in solidarity with the movement, and to oppose discrimination by Whole Foods.
7. In response, many of us were spoken to by management and told we were in violation of the dress code and got sent home.
8. I felt insulted and offended that my employer was telling me I could not wear a mask that said my life matters. I felt targeted by Whole Foods, since the company regularly responds to current events, for example, by allowing workers to wear seasonal apparel or holiday attire, but was refusing to support me in asserting my life matters and was refusing to support me as an employee.
9. The next day, thirteen people again wore the Black Lives Matter masks to work and were sent home for being in violation of the dress code.
10. I was surprised and disappointed by Whole Foods disciplining and retaliating against us for wearing the masks. I expected that Whole Foods would support us in wearing the Black Lives Matter masks because the company claims to be inclusive and support all of its employees and has publicly supported the movement, including posting a statement on its website in support of the Black Community.
11. Whole Foods claims that it is disciplining us because the Black Lives Matter masks violate the dress code policy, which prohibits employees from wearing clothing with visible slogans, messages, logos, or advertising that are not company-related.

12. However, Whole Foods has not consistently enforced this policy. I have worn a tee-shirt with a Champions logo many times, in violation of the dress code, and have never been spoken to or disciplined.
13. I believe that Whole Foods is selectively enforcing its dress code to discipline employees for wearing Black Lives Matter Masks by sending employees who wear the Black Lives Matter masks home without pay and assigning employees a disciplinary point for each time they are sent home.
14. Each time I have worn the Black Lives Matter mask, I have been sent home without pay and received a disciplinary "point."
15. My co-workers who have worn the Black Lives Matter mask have also been sent home each time they have worn the mask to work and have been assigned disciplinary "points".
16. I have been sent home without pay for wearing a Black Lives Matter mask a number of times now (approximately thirteen). I have worn the mask to nearly every shift I was scheduled to work from June 24 through the present. Each time I have been disciplined and sent home without pay.
17. As a result of the disciplinary points I have accumulated for wearing a Black Lives Matter mask, I have received a written warning, and am two points away from a final warning.
18. If I receive six more disciplinary points, I will be fired.
19. Despite these warnings and the discipline that I have received, I continue to wear my Black Lives Matter mask because I believe that Whole Foods is discriminating against me by refusing to support me and by targeting employees

who wear the Black Lives Matter masks, while allowing a host of other dress code violations.

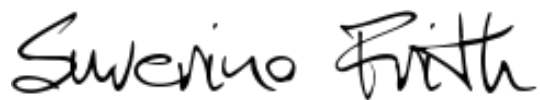
20. I believe that Whole Foods is discriminating and retaliating against me because I am being disciplining for wearing the Black Lives Matter masks, and against other workers who associate with me and who are advocating for me (and for our many other Black Whole Food employees across the county), by disciplining us for wearing Black Lives Matter masks.

21. I have continued to wear my Black Lives Matter mask to protest against Whole Foods' discriminatory policy of selectively enforcing its dress-code.

22. I want to keep wearing my Black Lives Matter mask at work, but am concerned that, if I do, I will be fired. It would be difficult for me to lose my job. I live at home with my mom and if I lost my job I would be unable to continue contributing to the household bills, and would be unable to keep paying down interest my student loans (I am a third year Computer Science major at Worcester Polytechnic Institute). I am worried that if I lose my job I will burden my mom more financially, and she is attempting to apply for a loan for a new home right now. I have no other paying job (I am also currently working in an unpaid internship in my area of study) and rely on Whole Foods for income.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 07/19/2020

A handwritten signature in black ink that reads "Suverino Frith". The signature is written in a cursive, slightly slanted style.

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Suverino Frith